

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JERRY RAY HALL,)	
)	
Plaintiff,)	Civil Action No. 7:21cv00617
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
SGT. MILLER,)	By: Hon. Thomas T. Cullen
)	United States District Judge
Defendant.)	

Plaintiff Jerry Ray Hall, a Virginia prisoner proceeding *pro se*, filed this civil rights action under 42 U.S.C. § 1983 against Sgt. Miller. At least three of Hall’s previous actions, however, have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted.¹ Therefore, Hall may not proceed with this action unless he either prepays the filing fee or shows that he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

As Hall has neither prepaid the filing fee nor demonstrated that he is “under imminent danger of serious physical injury,”² the court dismisses his complaint without prejudice pursuant to § 1915(g).

¹ See e.g., *Hall v. Nikstaitis*, Civil Action No. 7:19cv875 (W.D. Va. April 15, 2020) (dismissed as frivolous and malicious); *Hall v. Williams, et al.*, Civil Action No. 7:20cv162 (W.D. Va. April 21, 2020) (dismissed as frivolous); *Hall v. Simmons*, Civil Action No. 7:20cv706 (W.D. Va April 22, 2021) (dismissed for failure to state a claim).

² Hall's only allegations against Sgt. Miller are that she has "been denying [him] the due procedures" related to the grievance process and that she "do[es]n't tell the truth to [any]body" and she "can't back up her words that come[] out of her mouth." As relief, Hall asks to "have the Sgt. rank tak[en] from Miller for false statement." Hall's allegations against Sgt. Miller do not suggest that Hall is under imminent danger of serious physical injury. See *Springer v. Day*, No. 7:16cv261, 2016 U.S. Dist. LEXIS 76270, at *3, 2016 WL 3248601, at *1 (W.D. Va. June 13, 2016) (quoting *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002)) ("Courts have held that the imminent danger exception to § 1915(g)'s 'three strikes' rule must be construed narrowly and applied only for 'genuine emergencies,' where 'time is pressing' and 'a threat . . . is real and proximate' to the alleged official misconduct.")

The clerk is directed to forward a copy of this Memorandum Opinion and accompanying Order to Hall.

ENTERED this 14th day of December, 2021.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE

Moreover, these allegations do not state a viable constitutional claim against Sgt. Miller. *See West v. Atkins*, 487 U.S. 42, 48 (1988).